IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

Ravindra Nath Sharma vs. State of Rajasthan & Ors. (S.B.C.Writ Petition No.5948/03)

Date of Order :- 6th October, 2006.

PRESENT

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Mr.Harish Purohit , Advocate for the petitioner.
Mr.Rameshwar Dave, Dy.Government Advocate for the respondents.

By this writ petition, the petitioner Ravindra Nath Sharma has prayed for a limited relief against the respondents for release of his annual grade increment from 1999 onwards and for allowing him the benefits of additional increment on his acquiring of Master's Degree in Education w.e.f. 6.4.1998.

I have heard Mr.Harish Purohit, learned counsel for the petitioner and Mr. Rameshwar Dave, learned

Dy.Government Advocate and perused the record.

Learned counsel for the petitioner has argued that the petitioner was working on the post of Senior Teacher (General) in the Department of Education. He submitted an application to the respondents on 5.11.1998 to accept his voluntary retirement because he wanted to contest elections of Legislative Assembly. Because this application was conditional one, Dy.Director(Boys), Secondary Education, Bikaner Zone, Churu by his letter dated 16.11.1998 asked the petitioner to submit application without condition. The petitioner thereupon reported on duty on 9th December, 1998 but his joining was taken on 1.1.1999. Pursuant to the order dated 26.3.1999 passed by the Principal, Government Senior Secondary School, Ramgarh, he was relieved from duties. He preferred an appeal before the Rajasthan Civil Service Appellate Tribunal, Jaipur (in short "the Tribunal") which by its interim order dated 1.4.1999 permitted the petitioner to join his duties and accordingly the petitioner joined the duties on 3.6.1999. The respondents however did not make any payment

of the salary and therefore again the Tribunal passed an order on 11.8.99 directing payment of the outstanding salary within a period of one month . Inspite of the order passed by the learned Tribunal, no action was taken by the department. It is only when the petitioner preferred an application for initiating contempt proceedings against the respondents, that the respondents made payment of salary to the petitioner. A charge sheet was served upon the petitioner on 18.3.2000 under Rule 16 of the Rajasthan Civil Service(Classification, Control and Appeal) Rules, 1958(for short "Rules of 1958"). The Director, Secondary Education, Bikaner vide order dated 27.3.2000 placed the petitioner under suspension with his headquarter at Deputy Director(Boys), Churu. The petitioner submitted representation to the respondents for revocation of suspension order. The Dy. Secretary to the Government, Department of Education(Gr.IV), Rajasthan, Jaipur vide orders dated 19.10.2000 and 23.10.2000 directed the Director, Secondary Education, Bikaner to revoke suspension of the petitioner but the same were not complied with. Again Deputy Secretary to the Government vide order dated 20.12.2000

directed the respondent no. 2 to reinstate the petitioner. Inspite of this when the petitioner was not reinstated, he had to file a writ petition before this Court being S.B.C.Writ Petition No.672/01 which was allowed by the Court vide judgment dated 25.11.2002. It was only thereafter that the respondents reinstated the petitioner vide order dated 29.7.2003 and posted him at Malsisar in district Hanumangarh by order dated 18.8.2003. The petitioner has however not been allowed the benefit of annual grade increment from the year 1999 onwards and has also not been given additional increments admissible on account of his acquiring the degree of Master in Education.

Learned counsel for the respondents has contested the writ petition and argued that the petitioner earlier submitted a conditional application for voluntary retirement on 6.11.1998 which he was required to submit without any condition. His real purpose for submitting the application for voluntary retirement was to contest Assembly elections but the petitioner concealed this fact in the application. The petitioner

has contested the elections and having lost therein, again submitted his joining. When this fact came to the notice of the authorities, he was relived on 26.3.1999. A charge sheet was served on the petitioner under Rule 16 of the Rules of 1958 on misconduct of contesting the Assembly Elections and concealing this fact from the department. The petitioner was suspended during enquiry but finally he was reinstated pursuant to the directions issued by this Court on 25.11.2002. As far as annual grade increment which was payable to the petitioner on 19.1.1999 is concerned, same was sanctioned to him on 26.3.1999. The period of leave was also regularised by grant of leave of 66 days. The bill of his arrears of revised salary amounting to Rs.2107/- was sent to the Treasury Office, Hanumangarh on 14.9.2004 and this payment was made to him in due course. So far as the benefit of additional increment on acquiring the degree of Master Education is concerned, the respondents have denied that the petitioner has acquired such degree on 6.4.1998. In fact the petitioner passed the M.Ed. Examination on 6.7.1998 as would be evident from the copy of the mark sheet which has been placed on record. The

government has withdrawn the rule/provision regarding grant of additional grade increment on acquiring the degree of M.Ed. and such withdrawal has been made effective from 1st July, 1998. It has therefore been prayed that the writ petition may be dismissed.

So far as grant of annual grade increment on acquiring qualification of Master Degree in Education is concerned, the assertion of the petitioner that he acquired such degree w.e.f. 6.4.1998 cannot be accepted in the light of his mark sheet Annexure R/2 which respondents have placed on record with the reply. This mark sheet itself has been issued on 6th July, 1998 and the degree in all probabilities must have been awarded to him at a later date but as and when awarded, it should be deemed to have been awarded from the date on which he was declared to have passed the examination. Such date in the present case is 6th July, 1998 when the concerned University issued the mark sheet. The respondents have asserted that the provisions with regard to giving additional increments to those who acquired Post

Graduation Degree in Master of Education was withdrawn w.e.f. 1st July, 1998, there is no reason not to believe their version particularly when the petitioner has not placed on record anything to the contrary. Hence this relief prayed for cannot be granted to the petitioner.

On the question of increments from the year 1999 onwards, the respondents have stated that annual grade increment which was payable to the petitioner on 19.1.1999 has since been sanctioned to him on 26.3.1999 and other regular increments for the subsequent period would also be given accordingly. It would therefore be evident that the respondents have themselves not only given the benefit of increments for the year 1999 to the petitioner but have also given other regular increments for the subsequent period to the petitioner.

With the aforesaid observations, I do not find any merit in this writ petition. The same is accordingly dismissed. There shall be no order as to costs.

(MOHAMMAD RAFIQ),J.